

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:11-cr-346-05

v.

HONORABLE PAUL L. MALONEY

RUDOLPH TOLIVER,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

Defendant Rudolph Toliver has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to drug quantity.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to drug quantity, and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10(c).

Defendant's original guideline range was 108 to 135 months and the defendant was sentenced to 87 months imprisonment. After application of Amendment 782, the amended guideline range is 87 to 108 months. The original sentence imposed is the same as the minimum of the amended guideline range. Therefore, this court cannot further reduce defendant's sentence

within the amended guideline range. Accordingly,

IT IS HEREBY ORDERED that Defendant Rudolph Toliver's motion modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 149) is **DENIED**.

Date: November 3, 2015

/s/ Paul L. Maloney

Paul L. Maloney
United States District Judge